

3/15/18

2:40 P.M.

Chapter No. 357
18/HR26/R494CS
END / SD

HOUSE BILL NO. 235

Originated in House  Clerk

HOUSE BILL NO. 235

AN ACT TO AMEND SECTIONS 27-17-455, 27-17-475 and 27-17-493, MISSISSIPPI CODE OF 1972, TO AUTHORIZE TAX COLLECTORS ISSUING LICENSES UNDER THE LOCAL PRIVILEGE TAX LAW TO USE AN ELECTRONIC SIGNATURE AND TO ISSUE DUPLICATES AND STORE UNUSED BLANK LICENSES ELECTRONICALLY; TO BRING FORWARD SECTION 27-17-453, MISSISSIPPI CODE OF 1972, WHICH REQUIRES TAXPAYERS TO SUBMIT AN APPLICATION TO THE TAX COLLECTOR FOR THE LOCAL LICENSE, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 27-17-463, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE TAX FOR LICENSES ISSUED FOR LESS THAN ONE YEAR TO BE PRORATED, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-17-455, Mississippi Code of 1972, is amended as follows:

27-17-455. Upon the receipt of the application herein required, and payment of the amount shown thereby to be due for the privilege to be exercised, the officer to whom said application is made shall determine if the application is in proper form, and if the correct amount be tendered, and may require the applicant to furnish such other and further information as in his opinion is necessary to ascertain the

correct amount of tax due. When the correct amount of the tax has been so ascertained, the said officer shall issue to the applicant taxpayer a privilege license according to such application, and shall date the same as of the first day of the month of its issuance. The officer issuing the license shall countersign the same in writing or alternatively, by electronic or digital signature or a handwritten signature saved on a computer, when the license is issued by him, and he shall enter the same in the register prescribed by law therefor. The license issued by collectors as herein provided shall be executed in duplicate, which duplicate may be in the form of a paper copy or electronic document. The original shall be delivered to the licensee by the officer, and the paper or electronic duplicate, as the case may be, shall be attached or electronically linked to or otherwise maintained with the application therefor, and preserved by the officer as a public record.

If, however, such officer, shall, before issuing the said license, or at any time thereafter, have reason to believe that the statements of the business contained in the application are incorrect or false in any material particular, the said officer shall duly notify the applicant wherein the supposed discrepancy lies, and he is hereby empowered to require the applicant to render such other information as will enable him to determine the proper tax due. After making such determination of the proper tax due, if the license has not been issued, such officer shall

forthwith proceed to collect the amount of tax due; and if the license shall have been issued under the original application, he shall collect the difference between the sum shown to be properly due, and the sum paid with the original application, and shall issue an additional license therefor which shall expire at the same time as the original. If the additional tax is paid within thirty (30) days after the determination by the officer of the proper amount due, no penalty shall be applied. If the taxpayer shall willfully fail or refuse to furnish the information requested by such officer, he shall be liable for damages as in other cases of payment of an insufficient privilege tax, and may be proceeded against civilly or criminally as otherwise provided herein, and shall suffer the penalties provided herein therefor.

All licenses issued pursuant to this section shall be good, usable and valid for one (1) year after the date thereof, or for such other period as is fixed by law for the privilege, which period shall be so designated in the license. However, no such license shall be issued for a period longer than one (1) year.

SECTION 2. Section 27-17-475, Mississippi Code of 1972, is amended as follows:

27-17-475. It shall be the duty of the county auditor or of the governing body of a municipality to prepare and have printed and distributed to the officer collecting the tax the proper privilege tax license blanks necessary to carry into effect any law relating to privilege taxes * * *. There shall be printed on

each license at the bottom thereof the words "this license shall not make lawful any act or thing declared to be unlawful by the State of Mississippi." All such privilege license blanks shall be printed in the form prescribed by the county auditor or in the case of a municipality, by the governing body of a municipality * * *. The privilege license blanks shall be imprinted with the fiscal year for which the blanks are to be issued and shall be numbered consecutively * * * for each fiscal year * * *. The privilege license blanks shall be made in duplicate, which duplicate may be in the form of a paper copy or electronic document. The original and paper or electronic duplicate, as the case may be, * * * must bear the same serial number and be alike in all respects except that they must be marked "original" and "duplicate." * * * If a paper duplicate is used, the original and duplicate shall be of different colors.

SECTION 3. Section 27-17-493, Mississippi Code of 1972, is amended as follows:

27-17-493. Each officer authorized to issue privilege licenses shall keep a privilege tax register in such form as he shall determine, in which the names of all privilege taxpayers shall be recorded, showing the amount paid, the serial number of the license issued and the period covered by such license, the business licensed and the location thereof. This register shall be submitted to the county auditor, or in the case of a municipality to the governing body of the municipality by such

officer at the end of each fiscal year or within twenty (20) days thereafter, when his final settlement shall be made. If the same be found correct and the amounts shown thereon to have been paid into the proper treasury, the county auditor or the proper officer of the municipality shall endorse the register "examined and found correct." This register shall constitute a permanent record of the officer authorized to collect privilege taxes and shall always be open for inspection by the public and the same shall be submitted to the grand jury by the keeper thereof whenever called for. At the same time when final settlement is made, as provided in this section, every officer shall return to the county auditor or to the governing body of the municipality in the case of municipalities all unused privilege tax license blanks and shall make a final settlement of his privilege tax accounts. The unused privilege tax license blanks shall be kept or electronically stored by the proper officer for three (3) years, at the expiration of which they may be destroyed or disposed of. On or before the twentieth day of January of the year in which the officer's term expires, each officer shall in like manner submit to the county auditor or in the case of municipalities to the governing body of the municipality his privilege tax register, together with itemized receipt signed by his successor in office properly certified by the county auditor or by the proper officer of the governing body of the municipality, setting forth by serial number all unused privilege tax license blanks on hand at the

expiration of his term of office, and if the county auditor or the proper officer of the municipality shall find the same correct, he shall endorse the same, as hereinbefore provided, and shall charge such officer's successor in office with all unused privilege tax license blanks, which shall be accounted for by said successor in office in like manner. Any other officer shall make a like settlement upon the expiration of his term of office. All monies received by the officer authorized by law to issue privilege tax licenses shall be deposited in the proper depository and shall be accounted for as provided by law.

SECTION 4. Section 27-17-453, Mississippi Code of 1972, is brought forward as follows:

27-17-453. Every person required to obtain a license for the privilege of engaging in any business for which a privilege tax is required shall make application therefor in writing to the officer who is required to collect the tax. The application for license shall be filed on blanks to be furnished by the tax collector for that purpose, and shall be subscribed and sworn to by the person owning the business, or having an ownership interest therein; or the officer who is required to collect the tax, or his duly authorized agent, may certify to the application. If the applicant is a corporation, a duly authorized agent shall execute the application.

The application shall show the name of such person or corporation and, in case of a partnership, the name of each

partner thereof; the person's, firm's or corporation's business office address; the location of the place of business to which the license shall apply; the nature of the business in which engaged; the total number of employees of the business for the previous twelve (12) months as shown by affidavit signed by the applicant; and any other information the officer who is required to collect the tax may require. The applications shall contain all the information necessary for the officer collecting the tax to properly classify the applicant and ascertain the amount of tax due. Applications for renewal of such license shall not require a certificate of notary public seal or signature, and the applicant shall not be required to obtain such signature or seal upon making the application for renewal.

The application shall be accompanied by the amount of the privilege tax as required by law.

Any person who shall willfully make any false statement in an application for a privilege license shall be guilty of a misdemeanor and, upon conviction thereof, shall be required to pay as damages double the amount of the difference between the tax paid and that which should have been paid, in addition to the fine and imprisonment imposed.

It is specifically provided that the officer taking the application for a privilege license shall carefully preserve the same for a period of three (3) years for the use of the grand jury, the courts of the state, or any duly authorized officer of

the State of Mississippi; and any officer who shall refuse or fail to take or require the application or affidavit, as herein required, shall be guilty of a misdemeanor and subject to the penalties therefor.

SECTION 5. Section 27-17-463, Mississippi Code of 1972, is brought forward as follows:

27-17-463. Except as otherwise provided in this section, all privilege licenses issued pursuant to this chapter from and after July 1, 1988, shall expire on September 30 of each year; the privilege tax for a license which is issued for a period of less than one (1) year shall be prorated according to the length of time intervening between the date of its issuance and the following September 30.

A municipality or county may, by ordinance, determine to issue privilege licenses which shall expire one (1) year from the date of issuance.

SECTION 6. This act shall take effect and be in force from and after July 1, 2018.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 1, 2018


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 1, 2018


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

3/15/18
2:40pm